

REMARKS/ARGUMENTS

Claims 1, 10-12, and 14-15 are pending in the present application. Claims 2-9 and 13 have been cancelled. In the Office Action mailed March 16, 2006, the Examiner allowed claim 1. The Examiner rejected claims 10-12 and 14-15 under 35 U.S.C. § 103.

Applicant thanks the Examiner for allowing claim 1. Claims 10-12 and 14-15 have been amended. Claims 16-25 have been added. Reconsideration of the rejections of claims 10-12 and 14-15 is respectfully requested in view of the above amendments to the claims and the following remarks.

A. New claims 16-18

New claim 16 recites that detecting a sub-sequence of the application program further comprises "executing the sub-sequence of the application program." New claim 17 recites detecting a sub-sequence of the application program further comprises "examining the outcome of executing the sub-sequence of the application program." New claim 18 recites detecting a sub-sequence of the application program further comprises "searching for the presence of any files that may be requested by the sub-sequence of the application program and determining if the files are present." Support for these amendments may be found throughout Applicants' specification, such as on page 12, lines 4-20.

Claims 16-18 depend either directly or indirectly from allowed claim 1. Accordingly, Applicants respectfully submit that claims 16-18 are allowable as depending from an allowed claim.

B. Rejection of Claims 10-12 and 14-15 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 10-12 and 14-15 under 35 U.S.C. § 103(a) based on U.S. Patent No. 5,909,215 to Berstis et al. (hereinafter, "Berstis") in view of U.S. Patent No. 6,671,691 to Bigus (hereinafter, "Bigus"). This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must

be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

Claim 10 has been amended to recite a method to perform customized error handling comprising "identifying a sub-sequence of a program partition that will result in a call to the operating system that may cause an error," "determining if the error occurred based on the outcome of the call," and "modifying the sub-sequence of the program partition with a new sub-sequence of computer instructions such that the new instructions accomplish the desired operation while leaving the program partition otherwise unaffected." Support for these amendments may be found throughout Applicants' specification, such as on page 12, lines 4-20. Applicants respectfully submit that they cannot find any portion of Berstis or Bigus that discloses, teaches, or suggests these limitations.

Claim 12 has been amended to recite "identifying a sub-sequence of a program partition that will result in a call to the operating system that may cause an error," "determining if the error occurred based on the outcome of the call," and "modifying the sub-sequence of the program partition with a new sub-sequence of computer instructions such that the new instructions

accomplish the desired operation while leaving the program partition otherwise unaffected.” Support for these amendments may be found throughout Applicants’ specification, such as on page 12, lines 4-20. Applicants respectfully submit that they cannot find any portion of Berstis or Bigus that discloses, teaches, or suggests these limitations.

In view of the foregoing, Applicants respectfully submit that claims 10 and 12 are patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claims 10 and 12 be withdrawn.

Claim 11 has been amended to recite “determining if an error occurred comprises executing the call that the program desired to make.” Claim 14 has been amended to recite “executing the call that the program desired to make to determine if an error occurred.” Support for these amendments may be found throughout Applicants’ specification, such as on page 12, lines 4-20.

Claim 15 has been amended to recite “examining the outcome of the call to the operating system to determine if an error occurred.” New claim 19 recites determining if an error occurred further comprises “examining the outcome of the call to the operating system.” Support for these amendments may be found throughout Applicants’ specification, such as on page 12, lines 4-20.

New claim 22 recites determining if an error occurred further comprises “searching for the presence of any files that may be requested by the call and determining if the files are present.” New claim 25 recites “searching for the presence of any files that may be requested by the call and determining if the files are present to determine if an error occurred.” Support for these amendments may be found throughout Applicants’ specification, such as on page 12, lines 4-20.

New claims 20 and 23 recite “the call to the operating system is a system call.” New claims 21 and 24 recite “the call to the operating system is an application call.” Support for these amendments may be found throughout Applicants’ specification, such as on page 12, lines 4-20.

Applicants respectfully submit that Applicants cannot find any portion of Berstis or Bigus that discloses, teaches, or suggests these limitations. Furthermore, claim 11 depends directly from claim 10 and claims 14-15 depend directly from claim 12. Accordingly, Applicants respectfully request that the rejection of claims 11, and 14-15 be withdrawn for at least the same reasons as those

Appl. No. 09/815,441
Amdt. dated June 16, 2006
Reply to Office Action of March 16, 2006

presented above in connection with claims 10 and 12. Furthermore, new claims 19-22 depend either directly or indirectly from claim 10 and new claims 23-25 depend either directly or indirectly from claim 12. Accordingly, Applicants respectfully submit that new claims 19-22 and 23-25 are patentably distinct from the cited references.

C. Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley L. Austin', is written over a horizontal line.

Wesley L. Austin
Reg. No. 42,273
Attorney for Applicant

Date: June 16, 2006

MADSON & AUSTIN
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, Utah 84101
Telephone: (801) 537-1700